

## REMARKS

Upon entry of the present amendments, previous Claims 1 - 6 have been canceled and new Claims 7 - 10 substituted therefor. Reconsideration of the rejections, in light of the foregoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of distinguishing the present invention from the prior art.

In the Official Action, it was indicated that Claims 1 and 6 were rejected under 35 U.S.C. § 102(b) as anticipated by the Gomes patent. Claim 1 was also rejected as being anticipated by the Kobayashi patent. Claims 1, 2, 5 and 6 were rejected under 35 U.S.C. § 103(a) as being obvious over the Gomes patent in view of the Perry patent. Claims 1, 2 and 5 were rejected under 35 U.S.C. § 103(a) as being obvious over the Kobayashi patent in view of the Perry patent. Claims 1 - 6 were also rejected under 35 U.S.C. § 103(a) as being obvious over the Gomes in view of the Perry patent and further in view of the Cudzik patent. Claims 1 - 5 were also rejected under 35 U.S.C. § 103 as being unpatentable over the Kobayashi patent in view of the Perry patent and further in view of the Cudzik patent. Claim 6 was rejected under 35 U.S.C. § 112, first paragraph, as lacking an enabling disclosure. Claims 1 and 6 were also rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

As an overview to the present reply, Applicant has extensively amended original Claims 1 - 6 in form of new Claims 7 - 10. New independent Claim 7 incorporates the limitations of previous independent Claim 1, along with the limitations of dependent Claim 5. Claim 7 recites additional limitations which serve to distinguish the present invention from the prior art combination. Claim 7 has also been amended so as to express the original limitations in a more proper U.S. format, including proper antecedent bases and proper structural interrelationships throughout. Any indefinite

terminology found in the original claims has been corrected in these new claims. In particular, in independent Claim 7, the "can cover" and the "stay-on tab" are each positively recited relative to the preamble language of "a covering apparatus for a can".

Independent Claim 7 recites certain limitations that are neither shown nor suggested in the prior art combination. In particular, it is indicated that the can cover has "wrinkles formed therein so as to prevent upward swelling of said can cover by an expansion of the contents of the can". It is indicated that the central portion of the stay-on tab extends "contiguously to one end of the stay-on tab". It is also indicated that the central portion of the tab has "an edge spaced from another end of the stay-on tab such that said another end can be pulled upwardly from the upper surface of the can cover while the central portion remains juxtaposed in close contact with the upper surface of the can cover". It is also indicated that the "another end" of the stay-on tab is "a planar member". Importantly, independent Claim 7 recites that each of the ends of the stay-on tab are "inclined upwardly" from the upper surface of the can cover. Applicant respectfully contends that these features are neither shown nor suggested in the prior art combination.

The importance of the inclined surfaces of the tab were particularly recited on page 4, lines 2 - 9, as follows:

There is always a distance between said another end of the stay-on tab and the upper surface of the can cover. This distance becomes larger when said one end of the stay-on tab is pushed downward toward the upper surface of the can cover. In other words, the stay-on tab moves like a seesaw. When said one end of the stay-on tab is pushed down, said another end of the stay-on tab is moved upward. Therefore, it is very easy to insert a finger between said another end of the stay-on tab and the upper surface of the can cover in order to pull upward said another end of the stay-on tab.

Additionally, the can cover has wrinkles which prevent expansion of the can cover. This

synergistically works in combination with the particular structure of the stay-on tab so as to allow easier use of the opening device. The importance of this structure was recited on pages 4 and 5 of the original specification as follows:

Said can cover preferably has wrinkles so as to prevent said can cover from being swelled upward by the expansion of the contents of the can.

The can cover is often swelled upward by the expansion of the contents of the can. This is likely to occur when the can contains a beer, a soda water, etc. If the can cover is swelled upward, it may be impossible to provide a stay-on tab having one end and another end thereof respectively inclined upward from the upper surface of the can cover.

Additionally, and furthermore, the stay-on tab is affixed to an elliptical or polygonal cross-section support so as to prevent the tab from rotating. The importance of this structure was recited on page 8, fourth paragraph, as follows:

The stay-on tab is prevented from being turned in a horizontal direction by an external cause during the transportation, storage, etc. of the can when said supporting means protruding upward from said can cover has an elliptic or polygonal section, or when said auxiliary supporting means protruding upward from said can cover is provided beside said supporting means.

Thus, the particular structure of the present invention provides important advantages in combination with particular structures of the apparatus of the present invention. These structures, along with the associated advantages, are neither shown nor suggested in the prior art combination.

The prior art Gomes patent describes a tab used for opening a beverage can. Functionally, one end of the tab has a bottom side wall 14 which is provided so as to be rotatable into a desired position over the opening and to provide a sealing effect for the opening. As such, it is fundamental to the operation of the Gomes patent that the tap be rotatably mounted. Unlike the present invention,

as now claimed, the Gomes patent does not provide the "wrinkles" for allowing expansion of the contents of the can. The Gomes patent does not have a support "protruding upwardly" from the upper surface of the can cover. In the Gomes patent, the tab is intentionally rotatably mounted. The Gomes patent does not show a central portion that has an edge spaced from an end of the tab. Each of the ends of the tab of the Gomes patent has a generally curved configuration. As such, they are not "planar members". As can be seen in FIGURE 2 of the Gomes patent, the "another end" of the tab is not "spaced" from the upper surface of the can cover. Quite clearly, this end of the tab has a bottom surface which rests in surface-to-surface contact with the upper surface of the can cover.

The prior art Kobayasi patent shows a different structure of a tab for a can cover. The stay-on tab of the Kobayasi patent is not a unitary member. The Kobayasi patent describes a two-component tab system. As can be seen in the illustrations of the Kobayasi patent, the ends of the stay-on tab are not inclined upwardly. In order for the Kobayasi device to work properly, the tab must be planar throughout. As a result, there is no seesaw effect. The central portion is not contiguous with the end of the tab. The can cover of the Kobayasi patent does not have wrinkles so as to prevent the expansion of gases from affecting the tab action. The tab of the Kobayasi patent is rotatably mounted about a single support. As such, the Kobayasi patent does not individually show the structure of the present invention, as defined by independent Claim 7.

The Perry patent shows a variety of systems for the opening of a scored surface on the can cover. The Perry patent describes a variety of different systems. The Perry patent does not show the inclined edges that are spaced by distances from the upper surface of the can cover. Without these inclined surfaces, the Perry patent can not provide the seesaw effect of the present invention. FIGURES 47 - 49, along with various other figures, show that the tab is rotatably mounted on the

top surface of the can cover. The edges of the tab are not spaced, in any way, from the upper surface of the can cover. Quite clearly, as shown in FIGURES 50 - 51 and 60 - 61 of the Perry patent, the outer ends of the stay-tab are juxtaposed against the upper surface of the can cover.

Importantly, the Perry patent does not show the "wrinkles" of the present invention. Although the Examiner states on page 5, line 3, of the Official Action that the Perry patent discloses wrinkles 956 in the cover to prevent swelling of the cover, the wrinkles in the Perry patent are actually used to stiffen the can cover and to protect the user against being cut by the sharp edges of the opening (see the Perry patent on column 17, lines 53 - 54). The Perry specification does not refer to ribs (wrinkles) 956, but the ribs (wrinkles) 956 and 956' in FIGURE 52 are the same as ribs 456 and 456' in FIGURE 45. This referred to in column 17, lines 53 - 54 of the Perry specification. The ribs (wrinkles) 956 and 956' do not prevent swelling of the cover because they are too short to prevent swelling of the cover. In addition, these "ribs" would not, in any way, operate to enhance the ability to operate the tab when the top of the cover has expanded. In contrast to the specification of the present invention, when an expansion of the can cover of the Perry patent occurs, it will be much more difficult to lift the tab for the purpose for opening the content take-out hole. As such, the Perry patent does not disclose the present invention.

The Cudzik patent describes a different type of can opening system. The Cudzik patent does not have inclined ends. As a result, there is no seesaw effect created by the tab of the Cudzik patent. Quite clearly, the illustrations of the Cudzik patent show the ends of the tab as juxtaposed against the top surface of the can cover. The Cudzik patent does not show a central portion having edges spaced from the end of the tab. The Cudzik patent does not show the "wrinkles". The Cudzik patent does not show the tab as mounted on a support extending upwardly from the can cover.

The prior art combination of the Gomes and Perry patents do not show the structure of the present invention. The prior art combination of the Gomes and Perry patent would still lack inclined edges whereby the ends of the tab are spaced from the upper surface of the can cover. The combination of the Gomes and Perry patent would not create the seesaw effect of the present invention. The combination of the Gomes and Perry patents would still have a rotatable tab. Since the Perry patent does not describe the "wrinkles" of the present invention, the combination of the Perry patent and the Gomes patent would not achieve the advantages of the present invention.

The prior art combination of the Kobayasi and Perry patents would not show the structure of the present invention since this combination would fail to show ends of the tab that are inclined upwardly. The combination lacks the wrinkles of the present invention. Once again, the combination of the Kobayasi and Perry patent would show a rotatable tab. Fundamentally, Applicant's attorney fails to see how the structure of the Kobayasi patent can be combined, in any way, with the structure of the Perry patent for the purpose of disclosing the present invention. The system of the Kobayasi patent is quite different than any system mentioned in the Perry patent.

The combination of the Gomes, Perry and Cudzik patents would fail to show the present invention in various ways mentioned hereinbefore. Fundamentally, the prior art combination would lack the inclined ends and would not show the seesaw effect of the present invention. The prior art combination would still lack the "wrinkles" for preventing content expansion.


Fundamentally, the prior art combinations, in various ways, would not allow the can covers to be easily stacked, such as shown in FIGURE 3 of the present application.

Applicant has canceled previous Claim 6 herein in view of the Examiner's formality objections. Dependent Claims 8 - 10 correspond to previous Claims 2, 3 and 4.

Based upon the foregoing analysis, Applicant contends that independent Claim 7 is now in proper condition for allowance. Additionally, those claims which are dependent upon Claim 7 should also be in condition for allowance. Reconsideration of the rejections and allowance of the present claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

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Date

  
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